

BRUSH CREEK PROPERTIES OWNER ASSOCIATION, INC.  
RULES AND REGULATIONS

The Board of Directors, acting in good faith and in a manner which the directors believe to be in the best interests of Brush Creek Properties Homeowners Association, Inc. ("the Association"), hereby adopt these rules and regulations on June 2009 pursuant to N.C. Gen. Stat. § 47F-3-102(1) on behalf of the Association.

Section 1: PURPOSE

1:1 These Rules and Regulations are designed to help protect and enhance property values by maintaining high quality standards and safety throughout the community. These Rules and Regulations do not replace any covenant, restriction or bylaw current in effect and are adopted for the purpose of guidance and clarification as to how such covenants, restrictions and bylaws will be applied. These rules and regulations may be extended, amended or replaced from time to time by the Board of Directors and remain in effect until amended or terminated by the Board. Homeowners are encouraged to submit suggestions for, or concerns about, any of the rules and regulations to the Board in writing. To help ensure your enjoyment of Brush Creek Properties, we ask that you, your family, your guests and invitees comply with the following rules and regulations.

Section 2: GENERAL

2:1 Brush Creek Properties ("the Community") is for the exclusive use of the lot owners and residents within the Community, their invited guests and such other persons as may be brought onto the property from time to time at the request of a lot owner or resident to perform such services or for such other purposes as may be requested. Brush Creek property is not to be used as recreation for trespassers and such persons are subject to prosecution.

2:2 The roads are maintained solely by the homeowners. If any damage to the roadway is caused by the negligence or misconduct of any lot owner or occupant, the association may assess that expense exclusively against that lot owner or occupant's lot pursuant to N.C. Gen. Stat. 47F-3-115(e).

Section 3: RENTAL PROPERTY

3:1 All owners who plan to use a home for rental are to advise the Board in writing with their purpose.

3:2 If a dwelling is used by a single renter for 6 months or longer the name of the renter is to be submitted by the property owner or his/her authorized representative to the Board of Directors as a point of reference.



3:3 Owners who rent, lease, give or otherwise permit occupancy of their property by others in whole or in part shall be responsible for any actions, damages caused, or violations of these rules and regulations by the property users. Fines, if levied and unpaid, will become a charge against the owner. (see Section 11)

3:4 Owners permitting other persons to use their Brush Creek property shall inform these persons of these Rules and Regulations by supplying them with a copy. This includes third parties such as Real Estate Agencies that manage property for the purpose of rental.

#### Section 4: ROADS AND VEHICLE

4:1 Road signs at entry points indicate the restriction of 4 wheelers and motor cross vehicles used for sport or recreation by unauthorized persons. Sport/Utility vehicles are permitted by lot owners in good standing with the HOA. For the purpose of accepting responsibility for the conduct of those using these vehicles the lot owner is to complete a registration form for each vehicle. Forms are available from the Board by request. An identifying sticker will be issued by the Treasurer at a cost determined by the expense of the sticker and replacement stickers likewise determined. The sticker shall be placed in view on the vehicle in such a manner to note that vehicles seen in Brush Creek without a sticker will be considered trespassing. The application shall remain active as long as the lot owner remains in good standing with the HOA.

4:2 Conduct identified by Sport/Utility vehicles as inappropriate can be submitted to the Board in writing and could result in fines to the lot owner. Inappropriate behavior can be identified but not limited to excessive noise, damage to roads or property, trespassing and unsafe conduct.

4:3 Restrictions may be placed on the travel of trucks or other heavy vehicles over the roads in order to preserve the roadbed. Weight restrictions may be posted when in effect or may be limited by certain weather conditions. "Tracked" vehicles are not permitted on any Brush Creek roads. They must be transported to building sites on an acceptable carrier.

#### Section 5: TEMPORARY STRUCTURES

5:1 For the purpose of clarification of Article II, Paragraph Number 2 of the Protective Covenants, no one is allowed to reside in a temporary structure except while a home is under construction. This is to allow a lot owner to supervise the construction process. A home is "under construction" when there is both: (1) a current and active building permit on file with the Swain County building inspector's office; and, (2) there is an ongoing contract for construction with a licensed general contractor to build a home or the owner is actively engaged in building the home himself.



5:2 Camping is permitted on the lot as a temporary means of enjoying the environment. The camper, tent, mobile home, trailer, or any temporary structure is to be removed when the lot owner returns to their permanent residence.

## Section 6: CONSTRUCTION GUIDELINES

6:1 Any association member who is planning to clear their lot for a building site/and or permanent structure is to obtain a Brush Creek Construction Guideline Form from the Board of Directors. This is to be reviewed with your Builder/contracture, signed and dated, and returned to the Board. This form will provide a reference for out of town members and help monitor road impact for maintenance. This process is intended to educate new members on issues that other homeowners have faced when building and maintain specifications on site preparation. The timely completion of a home construction is encouraged.

## Section 7: PETS AND ANIMALS

7:1 In clarification of Article II, Paragraph Number 5 of the Restrictive Covenants, no animals, except for common domesticated household pets such as dogs or cats are allowed to be kept within Brush Creek Properties. All dogs shall be leashed or under direct control of a responsible person at all times. The behavior of pets shall not be a nuisance. Pets are not allowed to run loose in the community. Horseback riding is permitted but no boarding of horses, livestock or other animals.

## Section 8: HAZARDS

8:1 In further clarification of Article II, Paragraph Number 5 of the Restrictive Covenants, the discharge of any weapon, including but not limited to, slingshots, air guns, paint ball projectiles, bow and arrows, or firearm within the Community is considered a nuisance and is prohibited, except as set forth herein. A lot owner may discharge a firearm on his or her property, provided they act responsibly and in a manner with respect to the safety of themselves and others. Any person other than a lot owner found to be in possession of a firearm or engaged in an activity related to hunting within the Community will be considered trespassing. Violators are to be reported to the local authority. ( see Quick Reference)

8:2 The discharge of fireworks of any kind is considered a fire hazard and prohibited.

8:3 No outdoor fire is permitted except for commercially manufactured barbecues or specific structures designed for fire containment with adequate water available equal to the amount needed to extinguish the fire if necessary. A commercially designed fire extinguisher is permitted in place of water. A ban on burning activated by local officials will prevail over these exceptions.



8:4 If burning of debris is required during construction, a permit from the local fire department is required prior to each burning.

#### Section 9: NOISE

9:1 Noise shall be kept at a minimum but especially between the hours of 10 PM and 7 AM.

#### Section 10: GARBAGE

10:1 No rubbish shall be stored or allowed to accumulate outside of building.

#### Section 11: ENFORCEMENT

11:1 Homeowners will be fined if they, their guests or renters violate the restrictive covenants, bylaws or any of the rules and regulations established by the Brush Creek Homeowner Association Board of Directors. In accord with N.C. Gen. Stat. § 47F-3-107.1, before imposition of such a fine, a hearing shall be held before the executive board or an adjudicatory panel appointed by the executive board to determine if any lot owner should be fined or if planned community privileges or services should be suspended pursuant to the powers granted to the Association in N.C. Gen. Stat. § 47F-3-102(11) and (12). Any adjudicatory panel appointed by the executive board shall be composed of members of the association who are not officers of the association or members of the executive board. The lot owner charged shall be given notice of the charge, opportunity to be heard and to present evidence, and notice of the decision. If it is decided that a fine should be imposed, a fine not to exceed one hundred dollars (\$100.00) may be imposed for the violation and without further hearing, for each day more than five days after the decision that the violation occurs. Such fines shall be assessments secured by liens under N.C. Gen. Stat. § 47F-3-116. If it is decided that a suspension of planned community privileges or services should be imposed, the suspension may be continued without further hearing until the violation or delinquency is cured. The lot owner may appeal the decision of an adjudicatory panel to the full executive board by delivering written notice of appeal to the executive board within 15 days after the date of the decision. The executive board may affirm, vacate, or modify the prior decision of the adjudicatory body.

11:2 Everyone is encouraged to cooperate with the Association members in their efforts to enforce these Rules and Regulations and complaints of violations are to be submitted to the board in writing. Notice of violations or complaints will be delivered in writing to the lot owner in question. Mail, E-mail, or fax is an acceptable means of written communication if there is verification that the information was received.

11:3 It is the responsibility of all owners to keep the Board advised of their current mailing address, phone numbers, E-Mail or communication devices. Homeowners are in violation if they move and do not give a forwarding address. This information is for Board use only and the respect to privacy is maintained by the Board.